Expenditures of Motor Vehicle Funds for Street Work

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We are extremely grateful for the opportunity to appear before your group. Although there have been administrative changes in this department in order for the executive authority to coincide with that of the Governor the objectives and ideals of our department remain the same and I wish to assure you that we will continue to do everything possible to continue this fine relationship that has been prevalent under the administration of the former State Examiner, Otto K. Jensen.

Many of you may be unaware of the historical background leading up to the foundation of this department in 1909. Briefly, it was the result of a culmination of events surrounding graft and corruption in government at the local level in the state. The primary purpose for the foundation of this department has apparently been served as evidenced by the small number of irregularities of a criminal nature that now occur. Although this still remains as a very important consideration, this department has also gradually developed into a service agency; therefore, as a necessity, many of our men have to be trained as specialists and their fields of operation have been quite narrow as compared to the overall demands placed upon us. These demands have increased year by year until at the present time, I have found it necessary to surround myself with not less than eight of our top-flight examiners in order to keep pace with the daily work load.

It is my thought that "your duties and authorities" must of necessity be a part of this discussion. With any imposed duties there are always problems connected with the performance of those duties. And I might say further that a discussion of your authorities could be nothing further than pointing out and discussing those authorities which are given to you in the acts of the General Assembly of our state; you are limited in your authority to such grants given by the legislature. An officer has no discretion in his official actions except as given by the statutes and it should be remembered that if the law
does not grant him specific authority, then he cannot go beyond these statutory grants. The mere fact that the statutes may not say that he CANNOT do a certain thing, is not authority for doing it.

You are attending the Purdue Road School because you are interested in learning better ways of properly maintaining and improving our city streets. The Board of Accounts is also interested in this subject and we are anxious to see that the greatest amount obtainable out of each highway dollar be obtained. Highway business in Indiana is big business. Last year the state distributed to cities and towns from the collection of gasoline tax and motor vehicle license fees, $10,525,569. In addition to this amount most cities and towns levied a property tax for street purposes.

I would like to emphasize this point because you are not limited to the motor vehicle tax funds since you may also levy, at the local level, additional taxes for street, alley and sewer purposes and the expenditure of funds derived from this source would be controlled by the general budget classification which is now in effect in cities and towns.

I would suggest that the motor vehicle highway funds received from the state be carried in what we might term a "special street" fund and not intermingled with funds raised at the local level in order that the expenditures could be better controlled and confined to the purposes provided by law.

We have found in many units which we audit that no record is available to show an inventory of equipment, materials or supplies; many street commissioners do not concern themselves with the balance in the street fund or the encumbrances outstanding against such fund or the appropriations made available for spending street fund. We believe that the keeping of adequate records is important in order to assist you in obtaining your full dollar's worth.

The statute which provides for distribution of motor vehicle highway funds to cities and towns provides that such funds shall be used for the construction, reconstruction, repair and maintenance of streets, including curbs and shall be budgeted according to law. Details of such use include:

1. Purchase, erection, operation and maintenance of traffic signs and signals and safety zones and devices;
2. Payment of any part of the cost of traffic policing and traffic safety;
3. Painting of structures, objects and surfaces in streets for purposes of safety and traffic regulation;
4. The oiling, sprinkling and cleaning of such highways;
5. The purchase, rental and repair of street equipment;
6. In some instances, for city's share of the cost of grade separations.
7. The necessary labor and material for street maintenance and improvement;
8. Contract payments for maintenance and improvement where such work is performed by contract.

PURCHASE OF MATERIALS, SUPPLIES AND EQUIPMENT

When the street commissioner needs any of these items, he should prepare a requisition, including detailed specifications for the various items. In too many cases, the specifications are too indefinite, inaccurate and do not furnish to a bidder sufficient basis upon which he can submit a fair bid.

We believe specifications should be so clear that there will be no question as to the quality of materials, supplies and equipment being checked back to those specifications.

The statute governing the purchase of supplies, materials and equipment is Chapter 99 of the Acts of 1945 as amended by Chapter 32 of the Acts of 1953.

This act provides that in case the purchase does not exceed $1,000 the purchaser is authorized to buy in the open market without the giving of notice or the receiving of bids. We believe that the term "purchaser" means the Board of Public Works in the case of a city. The 1953 amendment besides changing the amount permissible to be purchased on the open market from $500 to $1,000 added this proviso:

"Provided, further, that all purchases by any governmental unit under the above proviso shall be on a unit basis and purchases of a materials and equipment of a value in excess of $1,000 on the open market under two or more contracts is prohibited."

We believe that the provision regarding the bids being on a unit basis, i.e. ton, yard, gallon, etc., is clear but you may have some doubt as to the meaning of the last part of the proviso. We believe it was the purpose of the legislature by this enactment to stop certain evasions of the purchasing law whereby orders were split so that no order was over $500. It should be the purpose of every officer of a city to make purchases for the city at the lowest possible price, quality of course being considered. To buy large quantities of material or
supplies on the open market without receiving bids denies to the tax­
payers the right to obtain the fullest return for their tax dollars. It
should be your purpose to prepare clear and definite specifications for
the items you need to buy; obtain the best price obtainable; and be
sure that the quality and quantity is correct in order that you will
pay for what you bought.

MAINTENANCE OR IMPROVEMENT
BY CONTRACT

When the cost of public work or improvement to be constructed
or repaired is under $2,000, Chapter 306, Acts 1947, as amended by
Chapter 136, Acts 1949 and Chapter 4, Acts 1953 permits such public
work being performed by the city or town’s own workmen and the
purchase of materials, supplies or equipment as provided under the
provision of the law governing such purchases. If the cost is estimated
to be over $2,000 complete and detailed plans and specifications are
required to be prepared, approved by the Board of Works and placed
on file. Bids must be invited by publication of legal notices; the time
to lapse between the date of publication and the date of receiving bids
shall be determined by the Board of Works; in no case shall the
lapsed time be more than six weeks.

If the aggregate cost of the work is $5,000 or more the law
requires the use of the experience, equipment and financial question­
aire (Form 96-A).

Form 96 shall be used in submitting bids for public work. Form
86 is the form prescribed for Contractor’s Combination Bid Bond
and performance bond; Form 86-a is the form to be used for Con­
tractor’s Bond for construction when the combination bid and per­
formance bond is not used.

I would also call attention to the need of complying with the
prevailing wage law (Chapter 319, Acts 1935) when a contract is to
be awarded for the construction of any public work; “public work”
is defined in the act to include any public building, highway, street,
alley, bridge, sewer, drain, improvement or any other work of any
nature or character whatsoever which is paid for out of public funds.”

In summary, I would like to urge you (1) to keep good records,
(2) prepare clear and definite specifications, (3) check carefully the
quantity and quality of materials, supplies and equipment received,
(4) follow strictly the provisions of the laws governing purchases
and contracting for public works.